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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,313	03/04/2002	Christine Dingivan	10271-063-999	7146
20583	7590	03/10/2006	EXAMINER	
JONES DAY			JALLA, SANJOO	
222 EAST 41ST ST			ART UNIT	
NEW YORK, NY 10017			PAPER NUMBER	

1644

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/091,313		DINGIVAN, CHRISTINE	
	<b>Examiner</b>		<b>Art Unit</b>	
	Sanjoo Shree Jalla		1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-71 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **Species Election**

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
2. This application contains claims directed to the following patentably distinct species of the claimed inventions.

A) Applicant is required to elect a specific anti-CD2 antibody or a fusion protein such as one of those listed in claims 22-25.

AND

B) Applicant is required to elect a single disclosed species of an additional agent wherein the additional agent comprises:

- i. An immunomodulatory agent
- ii. A dermatological agent
- iii. An anti-angiogenic agent
- iv. An inflammatory agent

AND


- a) If i) is elected, applicant is further required to elect a single disclosed sub-species of an immunomodulatory agent such as recited in claims 44-46.
  - b) If ii) is elected, applicant is further required to elect a single disclosed sub-species of a dermatological agent such as recited in claims 41-43.
  - c) If iii) is elected, applicant is further required to elect a single disclosed sub-species of an anti-angiogenic agent such as recited in claims 62-63.
  - d) If iv) is elected, applicant is further required to elect a single disclosed sub-species of an inflammatory agent such as recited in claims 64-67.
3. The species of a binding molecule are distinct because of their different structures and physicochemical properties; fusion protein is a protein created through genetic engineering from two or more proteins/peptides whereas antibodies react with a diverse range of antigens and possess different effector functions. Further, LoCD2a/BTI-322 is a rat anti-human CD2 monoclonal antibody which is distinct from fusion protein LFA3TIP in structure and physicochemical properties.
  4. The species of an additional agent are distinct because of their different structures and physicochemical properties; An immunomodulatory agent, for example FK506, is distinct from a dermatological agent, for example coal tar, in its structure and function. Further, an

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anti-angiogenic agent, for example, endostatin, is distinct from an inflammatory agent such as aspirin, in its structure and function.

5. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species, which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP j 809.02(a).
6. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Sanjoo S Jalla whose telephone number is 571-272-4453. The examiner can normally be reached Monday through Friday from 8:30-5pm.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner  
Technology Center 1600

  
3/3/06  
**G.R. EWOLDT, PH.D.**  
**PRIMARY EXAMINER**